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December 18, 2023

Via ECF

Hon. Victoria Reznik
United States District Court for the
Southern District of New York
300 Quarropas Street, Room 630
White Plains, NY 10601

MEMO ENDORSED

Re: *IBM Corp. v. Micro Focus (US), Inc.*, No. 22 Civ. 9910 (S.D.N.Y.)

Dear Judge Reznik:

I write on behalf of Plaintiff IBM (“IBM”) to request leave, pursuant to the Southern District of New York’s Electronic Case Filing Rules & Instructions Rule 6.1, to file under seal its Opposition to Micro Focus’s Motion for a Protective Order (Dkt. 128) (“Opposition”) and Exhibits 1–10 thereto.

Exhibits 1, 3, 4, 5 6, 7, 8, and 9 contain material that Micro Focus has designated as Highly Confidential under the Protective Order in this case. Exhibits 2 and 10 contain excerpts of recent depositions of Micro Focus’s current and former employees that must be treated as Highly Confidential under the Protective Order until the end of the Review Period (30 days after the final transcripts are available), which has not passed. Dkt. No. 113 ¶ 2(a)(iv). Accordingly, IBM respectfully requests leave to file these excerpts under seal. Exhibit 9 is designated as Highly Confidential – Source Code because it refers to source code and variables in Micro Focus’s computer program.

The Opposition cites excerpts from, and otherwise discusses the content of, these exhibits and, thus, IBM requests permission to file the Opposition and these exhibits under seal until the parties can meet and confer to determine what, if any, material should be redacted.

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Sincerely,



Joshua L. Simmons


cc: Counsel of record (via ECF)

Plaintiff's request to temporarily seal ECF Nos. 140 and 140-1 to 140-10 is **GRANTED** pending further submission by the parties.

Accordingly, by 1/5/24 the parties are to meet, confer, and file a joint submission regarding their positions on what portions of ECF Nos. 140 and 140-1 to 140-10 should be sealed and/or redacted.

The Clerk of Court is directed to maintain ECF Nos. 140 and 140-1 to 140-10 under seal and only available to selected parties pending further submission by the parties.

SO ORDERED.



Hon. Victoria Reznik, U.S.M.J.

Dated: 12/19/23